

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

AMREP, INC.)	Miscellaneous Docket
)	
Plaintiff,)	
)	
v.)	
)	
YAVAPAI COLLEGE,)	
)	
Defendant.)	

MOTION TO COMPEL COMPLIANCE WITH RULE 45 SUBPOENA DUCES TECUM

Pursuant to Rule 45(e) and (f), Amrep, Inc. (“Amrep”) moves for an order to compel Yavapai College (“Yavapai”) to comply with and produce the documents requested in the attached Subpoena Duces Tecum (“Subpoena”, attached as Exhibit 1). In support of this Motion, Amrep states as follows:

1. The Subpoena was issued in connection to the case of Tyler Underwood v. O’Reilly Auto Enterprises, LLC, et al., pending in the U.S. District Court for the District of Nevada at Docket No. 2:21-cv-01766-GMN-NJK (the “Underlying Action”). Amrep is a defendant in the Underlying Action.

2. The Subpoena was issued from the Court in which the Underlying Action is pending, pursuant to Fed. R. Civ. P. 45(a)(2).

3. The Subpoena was personally served to Yavapai on March 23, 2022 at 1:01 p.m. The Proof of Service of the Subpoena is attached as Exhibit 2.

4. The Subpoena requested production of documents concerning former student Tyler Daniel Fred Underwood, the plaintiff in the Underlying Action, within twenty days of service. The Subpoena permitted production of these records by email.

5. Yavapai mailed correspondence to undersigned counsel on March 28, 2022 (attached as Exhibit 3), refusing to provide documents pursuant to the Subpoena on the basis that it was not issued from an Arizona state court and therefore it is not a lawfully-issued subpoena.

6. Yavapai's position is incorrect, as federal subpoenas are enforceable nationwide. *See* Fed. R. Civ. P. 45(b)(2).

7. Undersigned counsel has attempted to contact Yavapai multiple times via telephone to explain this error, with no success.

8. Undersigned counsel has repeatedly left voicemails with Yavapai asking to be put in contact with its counsel, with no success.

9. Yavapai has filed no objections to the Subpoena in the Underlying Action.

10. Amrep seeks an order compelling Yavapai to produce all documents available to it that are responsive to the Subpoena, as required by Fed. R. Civ. P. 45(e).

Date: July 6, 2022

BABST, CALLAND, CLEMENTS AND
ZOMNIR, P.C.

/s/Matthew Wood

Matthew Wood

AZ I.D. No. 029588

mwood@babstcalland.com

Alexandra G. Farone

(to be admitted pro hac vice)

afarone@babstcalland.com

Two Gateway Center, 6th Floor

Pittsburgh, PA 15222

(412) 394-5400

Counsel for Amrep. Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2022, a true and correct copy of this Motion to Compel was mailed via Regular U.S. Mail to the following:

Yavapai College
1100 E Sheldon Street
Prescott, AZ 86301

/s/Matthew Wood
Matthew Wood